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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 GUY ADAM ROOK,

10 Petitioner,

11 CASE NO. C18-233 JCC-BAT

12 v.

13 DONALD HOLBROOK,

14 Respondent.

15 **ORDER DENYING MOTION TO**
16 **CONSIDER PRO SE PLEADINGS**
17 **DKTS. 42, 43.**

18 In March 2018, the Court appointed counsel to represent petitioner in this federal habeas
19 corpus action. Dkt. 8. Since then, counsel has represented petitioner and litigated this matter on
20 his behalf. On September 23, 2019, petitioner's counsel filed a Reply in Support of Habeas
21 Petition, Dkt. 41, a Motion to Consider Pro Se Filing and attached a pro se supplemental brief,
22 Dkt. 42; petitioner also filed that day a declaration in support of his pro se supplemental brief.
23 Dkt. 43.

24 Petitioner's counsel contends the Court should permit the *pro se* filing because petitioner
25 has difficulties trusting his lawyers although counsel speak with petitioner on a weekly basis and
26 have traveled to Walla Walla to meet with him. Counsel argues granting the motion will help
27 petitioner be more confident in the fairness of the proceedings and that respondent will not be
28 prejudiced. Dkts. 42 (declaration).

1 Respondent argues the Court should deny the motion because petitioner's fear of
2 appointed counsel is irrelevant, petitioner has two capable lawyers, and petitioner has no right to
3 co-litigate the case while represented. Dkt. 44. The Court having considered the pleadings
4 submitted and the record **ORDERS**:

5 (1) The motion to consider pro se reply filing, Dkt. 42, and declaration Dkt. 43 is
6 **DENIED.** Petitioner does not have the right to co-litigate a federal habeas petition *pro se* while
7 represented by counsel. This is barred under Local Rule 83.2(b)(5) which forbids a party
8 represented by counsel of record from acting or appearing on his own behalf unless the party
9 requests leave to proceed on his own behalf. Here petitioner does not ask leave to proceed on his
10 own behalf and instead asks for permission to proceed along-side counsel and litigate his petition
11 *pro se*. As the Court may apply the Federal Rules of Civil Procedure to federal habeas petitions
12 under Habeas Rule 12, the Court concludes petitioner has no right to proceed *pro se* while
13 represented.

14 (2) The Court has considered whether petitioner's difficulty trusting counsel supports
15 granting the motion and concludes it is not. The Court understands many petitioners have trust
16 issues with counsel. But counsel speak with petitioner weekly and have traveled from Seattle to
17 Walla Walla to meet with petitioner. Counsel have filed a lengthy brief in support of relief. Two
18 lawyers represent petitioner and it appears they have diligently represented petitioner. Under
19 these circumstances, the Court declines to permit petitioner to co-litigate his case based upon
20 trust issues with counsel.

21 (3) While the Court denies the motion to permit *pro se* filings, this does not mean the
22 Court will disregard claims counsel did not brief. Rather, the Court will consider each of the
23 grounds for relief raised in the habeas petition. The Court's denial of the motion is therefore not

1 dispositive because the Court will review each of the claims originally presented, rather than
2 foreclose review of claims not briefed by counsel.

3 (4) The Clerk shall provide a copy of this order to the parties.

4 DATED this 16th day of October, 2019.

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7 BRIAN A. TSUCHIDA
United States Magistrate Judge

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